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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,706	10/28/2003	Chi Fai Ho	110 CONT3	5206
44729 IPLEARN, LLC 1807 LIMETREE LANE MOUNTAIN VIEW, CA 94040	7590 11/02/2009		EXAMINER UTAMA, ROBERT J	
			ART UNIT 3715	PAPER NUMBER
			MAIL DATE 11/02/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/694,706

Applicant(s)

HO ET AL.

Examiner

ROBERT J. UTAMA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-42, 44-47, 50, 51, 56, 57, 59-80 and 93-110 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39-42, 44-47, 50, 51, 56, 57 and 59-80 is/are allowed.
- 6) ☒ Claim(s) 93-110 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of the application

1. This office action is a response to the amendment and argument filed on 07/29/2009. The current claims status of the application is as follow: claim 39-42, 44-47, 50-51, 56-57 and 59-80, 93-110 are still pending; claims 1-38, 43, 48-49, 52-55, 58, 81-92 have been cancelled.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 07/29/2009 has been entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 98 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is a word missing between the word "selecting" and "again"; it is not clear what type of material that would need to be selected.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 93-94, 101-105, 107-108 and 110 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black US 5,774,591 in view of Haga US 5,211,563**

Claims 93: The Black reference provides a teaching of a computing device for helping a user and a camera configured to take at least one photographic images of the user analyzed using at least one rule to determine if the study materials to be presented needs to be adjusted to help the user learn the subject (see Black 26:55-65).

The Black reference are silent in the matter where the camera is connected at the top of the computer and having a display configured to present study material on the subject to the user. However, the Haga reference provides a teaching of a display configured to present study material on the subject to the user. Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of having a display configured to present study material on the subject to the user, as taught by Haga, in order to display the relevant information to the user.

Lastly, the examiner takes the position that positioning the camera on top of the display would have been a matter of design choice to one of ordinary skilled in the art. The Black reference set forth the camera will work as long as it is able to take a picture of the user's face.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to put the camera on top of the display because Applicant has not disclosed that to put the camera on top of the display provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Black's camera placement, and applicant's invention, to perform equally well with either the camera placement because both camera would perform the same function of providing the camera with a clear line of sight to the user's face.

Therefore, it would have been prima facie obvious to modify Black to obtain the invention as specified in claim 93 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Black.

Claim 94: The Black reference provides a teaching where the camera is configured to take a plurality of photographic of the user across duration of time to be analyzed to be determine if the study materials to be presented needs to be adjusted with the analysis being at least an attribute regatrdng the user's face (col. 21:20-35 and Table 3).

Claim 101: The Black reference provides a teaching of computing device further configured to select study material on the subject to be presented via the display (see col. 26:65-68).

Claim 102: The Black reference provides a teaching of the computing device is further analyzed, using at least one rule, the at least one of the photographic images of the user (col. 21:20-35 and Table 3).

Claim 103 and 104: The Black reference is silent on the matter of the computing device is configured to receive study materials through a network or the web (claim 104) to be presented to via the display. However, the Haga reference provides a teaching where the computing device is configured to receive study materials through a network to be presented to via the display (see col. 11:25-40). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of configured to receive study materials through a network or the web to be presented to via the display, as taught by Haga, in order to allow access to multiple student.

Claim 105: The Black reference provides a teaching where the attributes depends on the orientation of the face of the user in at least one of the images (see FIG 8A to 8C).

Claim 107-108: The Black reference provides a teaching on at least one of the eyes and eyelids of the user in at least one of the images (see col. 7:25-35)

Claim 110: The Black reference provides a teaching attributes depends a facial expression of the user in at least one of the images (see 21:20-35).

7. Claims 95-96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black US 5,774,591 in view of Haga US 5,211,563 further in view of Gervins et al US5,724,987

Claim 95 and 96: The Black reference fails to provide a teaching where adjusting the study materials comprises of adjusting the audio effect. However Gervins '987 teaches of adjusting the distribution of teaching material via the auditory or visual modalities (Gervins '987 Col. 6: 11-17). Therefore, it would have been obvious at the time of the invention to further modify Black with the teaching of adapting the distribution between auditory and visual modalities of the presentation of the teaching material. One of ordinary skilled in the art would have been motivated to make this combination since it would maintain the user an optimal level of attention and comprehension (Gervins '987 Col. 4:25-30).

8. Claims 97, 99, 100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black US 5,774,591 in view of Haga US 5,211,563 and further in view of Collins et al US 5,437,553

Claims 97, 99, 100: The Black reference fail to provide a teaching where the adjusting the material includes selecting a question to be presented, adjusting includes selecting again to be presented at least a portion of the study material already presented and providing the user how to proceed to learn the subject.

Collins '553 teaches of adjusting a teaching where the adjusting the material includes selecting a question to be presented, adjusting includes selecting again to be presented at least a portion of the study material already presented and providing the user how to proceed to learn the subject (see Collins '553 Col.6: 10-36 and FIG. 4 item 144). If the user answers with yes he will be shown a earning material; on the other hand, he would be given a game in order reclaim his attention span (see Collins '553 Col.6: 10-36 and FIG. 4 item 144). Therefore, it would have been obvious at the time of the invention to modify Black with the teaching of presenting a

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game in the middle of learning environment. One of the ordinary skilled in the art would have been motivated to make this combination since it would help alleviate boredom during the use of a learning system (see Collins '553 Col.6:24-32).

9. **Claim 98 is rejected under 35 U.S.C. 103(a) as being unpatentable over Black US 5,774,591 in view of Haga US 5,211,563, in view of Collins et al US 5,437,553 and further in view of Burtis 4,089,124**

Claim 98: The Black fail to provides a teaching where if the user's answer to the question is wrong, the correct answer is displayed. However, the Burtis reference provides a teaching where if the user's answer to the question is wrong, the correct answer is displayed (see col. 5:20-35). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of where if the user's answer to the question is wrong, the correct answer is displayed, as taught in Burtis, in order to supply the correct answer to the user.

10. **Claim 106 and 109 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black US 5,774,591 in view of Haga US 5,211,563, further in view of Kanede**

Claim 106 and 109: The Black reference fails provides a teaching on the distance between the two eyes of the user in at least one of the images and where the attribute depends on ratio of horizontal to vertical distance of the face of the user in at least one of the images. However, the Kanede reference provides a teaching on the distance between the two eyes of the user in at least one of the images and where the attribute depends on ratio of horizontal to vertical distance of the face of the user in at least one of the images (see page 13 paragraph 4). The examiner takes the position that substitution of one facial feature to another known facial feature would have been obvious to one of ordinary skilled in the art. The substitution of the facial feature, as taught in Kanede, would have yielded in a predictable result, namely, a facial recognition system that uses ratio of horizontal to vertical distance of the face of the user.

Conclusion

11. As indicated in a previous office action, Claims 39-42, 44—47, 50-51, 56-57, 59-80 are currently indicated as allowable subject matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. UTAMA whose telephone number is (571)272-1676. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. J. U./
Examiner, Art Unit 3715

/XUAN M. THAI/
Supervisory Patent Examiner, Art Unit 3715